IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE NINTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 21166 of 1994

Between:

Smt. R.Prameelamma, W/o. Venkatarama Reddy,
Utukuru (V), Chinthakommadinne (M),
Cuddapah Dist.

..... PETITIONER

AND

1 The Mandal Revenue Officer,
R/o. Utukuru (V),Chintakommadinne (M), Cuddapah.
2 The District Collector.
Cuddapah.
3 V.Penchalamma, W/o. Venkatasubbana,
R/o. Utukuru (V),Chintakommadinne (M), Cuddapah.
4 Smt. V.Chinna Penchallama, W/o. late Aamaralingam,
R/o. Utukuru (V),Chintakommadinne (M), Cuddapah.
5 Y.Chinnaiah, S/o. late Sankekka,
R/o. Utukuru (V),Chintakommadinne (M), Cuddapah.
RR3 to 5 impleaded as per count order dt.11.2.2000 in W.P.M.P.No.23113/99.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate Writ order or direction mostly one which is in the nature of the Writ of Mandamus declaring the action of the respondents in converting the land admeasuring Acrs.3.25 in Survey No. 141 of Utukuru Village, Chinthakoomadinne (M),, Cuddapah Dist into depressed classes lands depriving the claims of the petitioner for assignment of the same is illegal , irregular, arbitrary, unjustified, unsustainable and unwarranted and direct the respondents to consider the case of

the petitioner for assignment of the said land and pass.

Counsel for the Petitioner: MR.P.VEERA REDDY

Counsel for the Respondent No.: GP FOR ASSIGNMENT

The Court made the following :

ORDER:

Heard both sides.

The petitioner herein filed this Writ Petition, inter alia, seeking for Mandamus declaring the action of the respondents in trying to convert the land admeasuring Ac. 3.25 in S.No. 141 of Utukuru Vilage, Chinthakommadinne Mandal, Cuddapah District into depressed classes lands and denying the petitioner's claim for assignment of the said land.

The case of the petitioner in brief is that her husband has been in possession of the said land for more than 25 years and therefore, he became entitled for assignment. However, in the meanwhile, her husband became insane and the petitioner is in occupation of the land. In spite of the same, the respondent herein initiated proceedings under Provisions of the A.P Land Encroachment Act by issuing notice on 1.6.1983, to which the petitioner filed a detailed explanation. In spite of the same, no final orders were passed under Section 6 of the Act and apparently, the said proceedings have been dropped, however, the respondents are trying to evict the petitioner without considering her case for assignment. Hence, the present Writ Petition has been filed.

Considering the submissions made by both the parties and also on perusal of the material, it is seen that the petitioner's claim squarely rests on the basis of long

possession and she seeks assignment of the said land. Further, having regard to the proceedings already initiated under the provisions of the A.P Land Encroachment Act by issuing notice under Section 7 and on filing of the explanation by the petitioner, admittedly, nothing on record to show that any final orders are passed under Section 6 of the said Act. Once the notice is issued under Section 7 and filing of explanation, it is mandatory on the part of the first respondent herein, to pass final orders under Section 6. In the absence of the same, the respondents cannot evict the petitioner. Further even against the orders passed under Section 6, the petitioner has got an alternative remedy of appeal also.

In view of the same, it is not necessary to go into the merits of the case and it would suffice in the interests of justice if a direction is given to the respondents to pass final orders under Section 6 after taking into consideration the explanation already filed by the petitioner within a period of two months from the date of receipt of a copy of this order and communicate the same to the petitioner, so that the petitioner can avail the remedy available to her under law. It is need less to mention till the final orders are passed, the petitioner shall not be evicted.

Ka 09.07.2004.

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Mandal Revenue Officer,
R/o. Utukuru (V),Chintakommadinne (M), Cuddapah.
2 The District Collector.

Cuddapah.

3. 2CCs to G.P. for Assignments, High Court Buildings, High Court of A.P., Hyderabad.

4. 2CD copies